



**Texas Department of Insurance**

**Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

**GENERAL INFORMATION**

**Requestor Name and Address**

TEXAS HEALTH OF DALLAS  
3255 WEST PIONEER PARKWAY  
ARLINGTON TX 76013

**Respondent Name**

DALLAS ISD

**Carrier's Austin Representative Box**

Box Number 19

**MFDR Tracking Number**

M4-12-2386-01

**MFDR Date Received**

MARCH 19, 2012

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "We have found in this audit they have not paid what we determine to be the correct amount for this inpatient surgery per the Texas fee schedule in effect as of 2008. Per the applicable Texas fee schedule the correct allowable would be per the DRG 863. The allowable for this DRG per Medicare is \$6,318.03, we have also attached the print out for your review from the Medicare pricer program. The correct allowable would be at 143% making the allowable at \$9,034.78. Based on their payment of \$8,931.89, there is an additional of \$102.89, still due at this time."

**Amount in Dispute:** \$102.89

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "based on the Division of Workers' Compensation statement the pass thru amount listed on the Medicare Inpatient Pricer is not to be reimbursed. Therefore, the pass thru amount of \$71.95 was not considered. In accordance with rule 134.404, the prior reimbursement of \$8,931.89 is correct and no additional allowance is due."

**Response Submitted by:** Argus

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 10, 2011 through July 15, 2011	Inpatient Hospital Surgical Services	\$102.89	\$102.89

**FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
- 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
- The services in dispute were reduced/denied by the respondent with the following reason codes:

#### Explanation of benefits

- W1QA-Workers compensation state fee schedule adjustment. \*Medicare inpatient hospital specific reimbursement amount multiplied by 143%. DWC rule 134.404.\*
- 97H-The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated. \*Service(s)/Procedure is included in the value of another service/procedure billed on the same date.\*
- 193W-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly. \*Previous recommendation was in accordance with the Workers' Compensation State Fee Schedule.\*
- 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

#### **Issues**

1. Were the disputed services subject to a specific fee schedule set in a contract between the parties that complies with the requirements of Labor Code §413.011?
2. Which reimbursement calculation applies to the services in dispute?
3. What is the maximum allowable reimbursement for the services in dispute?
4. Is the requestor entitled to additional reimbursement for the disputed services?

#### **Findings**

1. 28 Texas Administrative Code §134.404(e) states that: "Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
  - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
  - (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables."

No documentation was found to support the existence of a contractual agreement between the parties to this dispute; therefore the MAR can be established under §134.404(f).

2. §134.404(f) states that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
  - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
    - (A) 143 percent; unless
    - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent."

No documentation was found to support that the facility requested separate reimbursement for implantables; for that reason the MAR is calculated according to §134.404(f)(1)(A).

3. §134.404(f)(1)(A) establishes MAR by multiplying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors (including outliers) by 143%. Information regarding the calculation of Medicare IPPS payment rates may be found at <http://www.cms.gov>. Documentation found supports that the DRG assigned to the services in dispute is 863, and that the services were provided at Texas Health Presbyterian Hospital.

The respondent's position states "based on the Division of Workers' Compensation statement the pass thru amount listed on the Medicare Inpatient Pricer is not to be reimbursed. Therefore, the pass thru amount of \$71.95 was not considered." In support of their argument the respondent quotes the Rule Adoption Order for Health Facility Fees rule §134.404 which states:

The Division agrees that the Labor Code does not provide for pass-through reimbursements to cover bad debt or teaching schools. For this reason, the Division has adopted CMS's base methodology but not parts related to the cost report process that address bad debt and direct medical education(33 Texas Register 419).

28 Texas Administrative Code §134.404(f) provides, in pertinent part, that "The reimbursement calculation

used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register” with minimal modification as specified in the rule. Contrary to the respondent’s position, the Division notes that the Rule Adoption Order does not specify that pass-through reimbursements are excluded from payment rule, only that the Labor Code does not provide for pass-through reimbursements to cover bad debt or direct medical education. The Division clarified elsewhere in the preamble that “Bad debt and direct medical education are paid outside the base methodology and are a part of the cost report reconciliation process, which the Division has not adopted” (33 Texas Register 419). In each instance, the Division is referring to a process, cost report reconciliation, that was not adopted and accordingly not mentioned in the text of the rule. The respondent has not supported the argument that pass-through amounts are to be excluded from CMS’s base methodology, or from the calculation of the Medicare facility specific amount.

Consideration of the DRG, location of the services, and bill-specific information results in a total Medicare facility specific allowable amount of \$6,318.03. This amount multiplied by 143% results in a MAR of \$9,034.78.

- 4. The division concludes that the total allowable reimbursement for the services in dispute is \$9,034.78. The respondent issued payment in the amount of \$8,931.89 Based upon the documentation submitted, additional reimbursement in the amount of \$102.89 is recommended.

**Conclusion**

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$102.89 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

11/06/2013  
Date

**YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**